

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:23-cv-00178-MR-WCM

MONICA AVERY, AMY PALENO, and)
TYLER MUDD,)

Plaintiffs,)

v.)

RHA HEALTH SERVICES, LLC,)

Defendant.)
_____)

ORDER

Before the Court is Defendant's Consent Motion to Consolidate (the "Motion," Doc. 7), by which RHA Health Services, LLC ("Defendant") moves to consolidate this case with Patricia Whipple and Courtney Aderhold v. RHA Health Services, LLC, Civil Action 1:23-cv-179 (the "Related Matter"). Defendant seeks consolidation "in light of the effectively identical legal claims in both matters," and represents that Plaintiffs in both cases consent to consolidation.

Rule 42 of the Federal Rules of Civil Procedure provides that, "[i]f actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay." Fed. R. Civ. P. 42(a). "The consolidation of actions is ordinarily

within the discretion of the trial court.” Pickens v. Hendricks, No. 1:21-cv-00030-MR, 2023 WL 316134, at *3 (W.D.N.C. Jan. 19, 2023) (citing Mut. Life Ins. Co. v. Hillmon, 145 U.S. 285, 292 (1892)).

On July 17, 2023, Monica Avery, Amy Paleno, and Tyler Mudd filed their complaint in this case, alleging violations of the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* (“FLSA”), and the North Carolina Wage and Hour Act, N.C. Gen. Stat. §§ 95-25.1 *et seq.* (“NCWHA”). Doc. 1.

That same day, Patricia Whipple and Courtney Aderhold filed a complaint against Defendant in the Related Matter, also alleging violations of the FLSA and NCWHA. Related Matter, Doc. 1. They later filed an Amended Complaint with the same claims. Related Matter, Doc. 4.

Plaintiffs in both actions worked as mobile crisis responders for Defendant; the Motion states that the facts alleged in each case are similar except that Avery, Paleno, and Mudd worked for Defendant in western North Carolina, while Whipple and Aderhold worked for Defendant in eastern North Carolina.

Also, the parties in each case are represented by the same counsel.¹

Defendant has filed substantially similar answers in both actions, and no scheduling order has been entered in either case. Doc. 6; Related Matter,

¹ Attorney Ethan L. Slabosky has been allowed to withdraw in the Related Matter but remains counsel of record for Plaintiffs in the instant case.

Doc. 8.

Under these circumstances, the undersigned finds that these matters should be consolidated.

IT IS THEREFORE ORDERED THAT:

1. Defendant's Consent Motion to Consolidate (Doc. 7) is **GRANTED** and this matter and Patricia Whipple and Courtney Aderhold v. RHA Health Services, LLC, No. 1:23-cv-179 are **CONSOLIDATED**.
2. The instant matter (Case No. 1:23-cv-00178-MR-WCM) is designated as the lead case, and all future filings shall be in this case only.

Signed: November 27, 2023



W. Carleton Metcalf
United States Magistrate Judge

